

AN ORDINANCE BY
COMMUNITY DEVELOPMENT AND HUMAN RESOURCES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA ("CITY"), TO ACCEPT FROM THE GEORGIA POWER COMPANY ("GPC") APPROXIMATELY 0.796 ACRES OF PROPERTY LOCATED AT 2010 AND 2020 LENOX ROAD AND KNOWN AS THE GPC PROPERTY (THE "GPC PROPERTY") ON WHICH GPC HAS CONSTRUCTED A PARKING LOT AND TRAIL PRIOR TO ITS CONVEYANCE, A TRAIL EASEMENT ON APPROXIMATELY 0.447 ACRES OF PROPERTY IN THE CITY LOCATED ON THE MORNINGSIDEN PLACE CONDOMINIUM PROPERTY KNOWN AS THE MORNINGSIDEN PLACE EASEMENT AND TRAIL ("TRAIL EASEMENT"), A DONATION OF UP TO FIVE THOUSAND DOLLARS (\$5000.00) TO FUND DUE DILIGENCE AND PURCHASE SERVICES, A DONATION OF UP TO SEVENTY-ONE THOUSAND EIGHT HUNDRED EIGHTY SEVEN DOLLARS AND SIXTY-FIVE CENTS (\$71,887.65) TO PARK PRIDE TO FUND DESIGN AND CONSTRUCTION COSTS OF A TRAIL; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta owns the existing Morningside Nature Preserve; and

WHEREAS, the Morningside Lenox Park Association and the City of Atlanta desire to expand the existing Morningside Nature Preserve to provide access from Lenox Road; and

WHEREAS, the Georgia Power Company ("GPC") owns property located on a portion of 2010 and 2020 Lenox Road in the City of Atlanta (the "City"), Parcel Identification Numbers 17-0004-0002-003-2 and 17-0004-0002-054-5 (the "GPC Property"), a description is attached hereto as Exhibit "A"; and

WHEREAS, the GPC has constructed a parking area and trail on GPC Property after obtaining the City's approval on the design, construction and landscaping drawings of the same, and intends to convey the GPC Property in fee to the City; and

WHEREAS, at its own cost the GPC has purchased an approximately 0.447 acre trail easement ("Trail Easement") on property adjacent to the GPC Property from the Morningside Place Homeowners Association, Inc. ("Morningside Property"), a description is attached hereto as Exhibit "B"; and

WHEREAS, the GPC wishes to donate the GPC Property and the Trail Easement ("Morningside Trail") to the City for the purpose of adding to the City's trail inventory; and

WHEREAS, the GPC wishes to donate up to Five Thousand Dollars (“\$5000.00”) at closing to cover the cost of title research, title insurance and closing costs of the GPC Property and the Trail Easement; and

WHEREAS, the GPC has donated to Park Pride an amount of up to Seventy-One Thousand Eight Hundred Eighty Seven Dollars and Sixty-Five Cents (\$71,887.65) to pay for the design and construction of a trail on the Trail Easement; and

WHEREAS, the GPC has designed and constructed the trail on the Trail Easement in accordance with plans and specifications mutually agreed upon by GPC and the City; and

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

SECTION 1: The Chief Procurement Officer or his designee, on behalf of the City, is hereby authorized to negotiate with the GPC to accept the donation of the GPC Property of approximately 0.796 acres of real property located on a portion of 2010 Lenox Road and a portion of 2020 Lenox Road, Atlanta, Georgia, Parcel Identification Numbers 17-0004-0002-003-2 and 17-0004-0002-054-5 and the Trail Easement of approximately 0.447 acres and the associated constructed trail and parking lot (known as the “Morningside Trail”) and for GPC to pay, at closing, incidental costs and closing costs incurred by the City in an amount not to exceed Five Thousand Dollars (\$5,000.00).

SECTION 2: The Chief Procurement Officer or his designee is hereby authorized to obtain a title report, a survey, and to perform environmental assessments and other due diligence services (collectively “Due Diligence Services”) to determine whether the City should accept the donation of the Morningside Trail.

SECTION 3: The City’s Greenspace Acquisition Consultant (“the Consultant”) is authorized to settle the donation of the GPC Property and the Trail Easement. The Consultant may also arrange and negotiate for the Due Diligence and Purchase Services.

SECTION 4: The Mayor, on behalf of the City, is authorized to accept any and all deeds, instruments or other documents that the Law Department deems to be necessary or advisable in order to carry into effect the intent of this ordinance.

SECTION 5: The City Attorney is hereby directed to prepare for execution by the Mayor, any and all deeds, instruments, or other documents that the City Attorney deems necessary or advisable to carry into effect the intent of this ordinance, said documents to be approved as to form by the City Attorney or her designee.

SECTION 6: Said deeds, instruments, and other documents shall not become binding upon the City, and the City shall incur neither obligation nor liability there under, until the same has been signed by the Mayor, attested to by the Municipal Clerk and approved to form by the City Attorney.

SECTION 7: Upon acquisition, the Department of Parks, Recreation, and Cultural Affairs, Office of Parks, is hereby charged with all responsibility for the GPC Property and the Trail Easement and shall retain the land in perpetuity as a public park. Nothing in this section shall preclude a neighborhood group(s) or other private entity from maintaining all or part of the property pursuant to an agreement with the City.

SECTION 8: All ordinances and parts of ordinances in conflict herewith are hereby waived for purposes of the Ordinance only, and only to the extent of the conflict.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: Community Development and Human Resources

Caption: AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA ("CITY"), TO ACCEPT FROM THE GEORGIA POWER COMPANY ("GPC") APPROXIMATELY 0.796 ACRES OF PROPERTY LOCATED AT 2010 AND 2020 LENOX ROAD AND KNOWN AS THE GPC PROPERTY (THE "GPC PROPERTY") ON WHICH GPC HAS CONSTRUCTED A PARKING LOT AND TRAIL PRIOR TO ITS CONVEYANCE, A TRAIL EASEMENT ON APPROXIMATELY 0.447 ACRES OF PROPERTY IN THE CITY LOCATED ON THE MORNINGSIDEN PLACE CONDOMINIUM PROPERTY KNOWN AS THE MORNINGSIDEN PLACE EASEMENT AND TRAIL ("TRAIL EASEMENT"), A DONATION OF UP TO FIVE THOUSAND DOLLARS (\$5000.00) TO FUND DUE DILIGENCE AND PURCHASE SERVICES, A DONATION OF UP TO SEVENTY-ONE THOUSAND EIGHT HUNDRED EIGHTY SEVEN DOLLARS AND SIXTY-FIVE CENTS (\$71,887.65) TO PARK PRIDE TO FUND DESIGN AND CONSTRUCTION COSTS OF A TRAIL; AND FOR OTHER PURPOSES.

Council Meeting Date: September 8, 2009

Requesting Dept.: DPRCA

FAC Confirmed by:

1. Please provide a summary of the purpose of this legislation.

The purpose of this legislative request is to have an Ordinance authorizing the acceptance of a donation from the Georgia Power Company (GPC) of a trail and trail easement with the Morningside Place Home Owners Association and a fee property with a trail-head/parking area. These properties and the associated trail will connect the existing Morningside Nature Preserve to Lenox Road.

2. Please provide background information regarding this legislation.

The Morningside Lenox Park Association has worked with the City's Department of Parks, Recreation and Cultural Affairs, the Georgia Power Company and Park Pride to develop a trail connecting Lenox Road with the existing Morningside Nature Preserve. GPC wishes to donate a trail easement on property of the Morningside Place Home Owners Association on which GPC has constructed a trail. Additionally, GPC wishes to donate, in fee, property where they have constructed a trail-head/parking area adjacent to their new substation on Lenox Road.

3. If Applicable/Known:

- (a) Contract Type-
- (b) Source Selection:
- (c) Bids/Proposals Due:
- (d) Invitations Issued:
- (e) Number of Bids:
- (f) Proposals Received:
- (g) Bidders/Proponents: None
- (h) Term of Contract:

4. Account Segment :

5. Source of Funds: None

6. Fiscal Impact: None

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By: Ellen Wickersham, Senior Acquisition Manager, Parks and Greenspace

EXHIBIT "A"

The GPC Property

Exhibit "A"
Property Description

All that tract or parcel of land situate, lying and being in Land Lot 4, District 17, City of Atlanta, Fulton County, Georgia, and being a parcel of land more particularly described as follows: TO ESTABLISH THE POINT OF BEGINNING, commence at the intersection of the Southerly line of the 100-foot right-of-way of CSX Railroad and the Westerly line of the 60-foot right-of-way of Lenox Road, said point being marked by an iron pin found (½-inch pipe); extending thence along a curve to the left, having a radius of 348.13 feet and an arc distance of 40.59 feet, with a chord bearing and distance of South 12°21'49" West 40.57 feet to a point, said point being marked by an iron pin set (½-inch rebar w/GPC Yellow cap) (all iron pins set are ½-inch rebar GPC Yellow Cap), and being the POINT OF BEGINNING; thence from said POINT OF BEGINNING along the Westerly line of the 60-foot right-of-way of Lenox Road, along a curve to the left, having a radius of 348.13 feet and an arc distance of 62.69 feet, with a chord bearing and distance of South 03°51'03" West 62.60 feet to an iron pin found (½-inch rebar); continuing thence along a curve to the left, having a radius of 392.15 feet and an arc distance of 90.07 feet, with a chord bearing and distance of South 06°24'33" East 89.87 feet to a point on other lands of Georgia Power Company, said point being marked by an iron pin found (½-inch rebar); thence South 69°40'22" West a distance of 151.10 feet to an iron pin set; thence South 15°42'42" West a distance of 115.00 feet to an iron pin set; thence South 28°44'48" East a distance of 51.38 feet to an iron pin set; thence South 55°18'48" West a distance of 147.89 feet to an iron pin found (½-inch rebar); thence North 00°08'55" West a distance of 12.15 feet to an iron pin set; thence North 43°42'00" East a distance of 46.12 feet to an iron pin set; thence North 09°21'13" West a distance of 27.04 feet to an iron pin set; thence North 58°00'21" East a distance of 43.73 feet to an iron pin set; thence North 12°38'49" East a distance of 45.66 feet to an iron pin set; thence North 18°31'35" East a distance of 96.56 feet to an iron pin set; thence North 38°45'42" West a distance of 62.06 feet to an iron pin set; thence North 36°56'44" East a distance of 112.97 feet to an iron pin set; thence North 19°21'30" East a distance of 51.35 feet to an iron pin set; thence North 53°00'04" East a distance of 49.30 feet to an iron pin set; thence South 82°46'42" East a distance of 13.94 feet to an iron pin set; thence South 87°45'37" East a distance of 59.47 feet to the POINT OF BEGINNING; said tract containing 0.796 acres, more or less, all as shown on Survey dated November 29, 2007, last revised March 3, 2009, Drawing Number P-13-6, certified by M. Greg Johnson, Georgia Registered Land Surveyor No. 2203.

The above described tract of land is more particularly shown on Georgia Power Company's plat for its Morningside 230/20kV Substation, as prepared by M. Greg Johnson, Georgia Registered Land Surveyor No. 2203, and designated Drawing Number P-13-6, Sheets 1 and 2 of 2, on file in the Offices of Georgia Power Company Land Department, and recorded in Plat Book____, Page____, in the Office of the Clerk of Superior Court, Fulton County, Georgia. Said Plat, by reference thereto, is made a part hereof.